REMARKS/ARGUMENTS

In this reply, Claims 47 and 48 are amended. No claims are cancelled or added. Therefore, Claims 1-50 are pending in the application. The amendments to the claims as indicated herein do not add any new matter to this application.

CLAIM REJECTIONS—35 U.S.C. § 101

Claims 47-48 were rejected under 35 U.S.C. § 101 for allegedly being directed to non-statutory subject matter. Claims 47-48 have been amended to recite the hardware that executes the method steps. The amendments make it unambiguously clear that the "processors" in the claims are not just software. Applicants respectfully request entry of the amendments to remove the non-statutory subject matter issues. Reconsideration and withdrawal of the rejection is respectfully requested.

CLAIM REJECTIONS—35 U.S.C. § 102

Claims 1-3 and 7-50 were rejected under 35 U.S.C. § 102(b) as being allegedly anticipated by Jagadish et al., (Jagadish, hereinafter) "TIMBER: A native XML database" by Jagadish et al., The VLDB Journal (2002), published online December 19, 2002). This rejection is respectfully traversed.

CLAIM 1

Claim 1 appears as follows:

1.   (Previously presented) A method comprising the computer-implemented steps of:
        gathering statistics by a database server about nodes that are stored in a database
              repository that is managed by the database server;
        wherein said nodes form a hierarchy;

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wherein each node is either an XML file or a container;

storing said statistics; and

in response to a request to the database server for access to one or more XML

      resources from said database repository, the database server computing a

      computational cost associated with each of two or more methods of

      accessing said one or more XML resources from said database repository,

      based on said statistics.

Jagadish does not suggest or disclose at least the features of Claim 1 shown in

bold above.

Jagadish discusses storing XML documents using a database system. In Jagadish,

the tree structure of an XML document (i.e. the hierarchical relationships between the

elements **within an XML document**) is retained in storage. However, a hierarchy

between **elements within an XML document** is very different than a hierarchy between

XML documents themselves (or containers of XML documents). While Jagadish shows

the former, Claim 1 requires the latter.

Claim 1 does not simply require storing XML documents so that the tree structure

of each XML document is retained in storage. Instead, in Claim 1, the nodes of the

hierarchy are XML files or containers. In Jagadish, nodes that are stored are only nodes

from the tree structures of XML documents, and the nodes in Jagadish do not suggest or

disclose a hierarchy of XML files or containers.

For example, in Jagadish, a data parser parses an XML document and stores

nodes of the parse tree as an atomic unit of storage. See section 3.1, page 1. The stored

nodes are similar to the nodes of a DOM tree that represent an XML document. See

section 3.1, paragraph 2. Subtrees of an XML document are labeled with (start, end,

level) values. See section 3.1, paragraph 3. An XML document is traversed in pre-order

tree traversal order, in order to store the XML document. See last paragraph of section

3.1. Section 4 of Jagadish discusses that "[a]n XML document is each tree" and "each

node in a tree represents an XML element". Witness trees are subtrees with a matching

pattern that are found within an XML document. See page 278 right-hand column, lines

5-7. Indeed, footnote 4 on page 280 of Jagadish says (emphasis added) "The database is

a **single** tree document". These portions cited from Jagadish show that, in Jagadish, a

single XML document is stored as a tree structure, and not that each node of a hierarchy

is either an XML file or a container, as recited in Claim 1.

The rejection of Claim 1 is respectfully traversed. Reconsideration is respectfully

requested.

Independent Claims 38, 42, 47, and 48 each recite features similar to the

distinguished features of Claim 1. The rejections of each of Claims 38, 42, 47, and 48 are

respectfully traversed for the same reasons as discussed herein for Claim 1.

Reconsideration is respectfully requested.

<div align="center">CLAIM 7</div>

Claim 7 appears as follows:

7.   (Previously presented) The method of Claim 1, wherein XML files of said nodes
        are XML resources, and wherein the step of storing statistics comprises **storing
        said statistics in a hierarchical index table** in which said XML resources are
        indexed to said database repository.

        Jagadish does not suggest or disclose at least the bolded features of Claim 7.

Jagadish does not disclose a hierarchical index table at all, much less storing statistics in

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such a hierarchical index table. The single-node indices discussed in section 3.2, first paragraph of Jagadish do not suggest or disclose a hierarchical index table. Nor is there any discussion in Jagadish of storing statistics in the single-node indices. The rejection of Claim 7 is respectfully traversed. Reconsideration is respectfully requested.

CLAIM REJECTIONS—35 U.S.C. § 103

Claims 4-6 were rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Jagadish in view of Michel et al., (Michel, hereinafter), Patent No. 7,113,936. This rejection is respectfully traversed.

Claims 4-6 depend from Claim 1, and therefore inherit the distinguished features of Claim 1. The Office Action does not even allege that the distinguished features of Claim 1 (which are not disclosed or suggested in Jagadish) are disclosed in the additional cited reference. Claims 4-6 are therefore patentable for the same reasons as discussed herein for Claim 1. The rejection of Claims 4-6 is respectfully traversed. Reconsideration is respectfully requested.

REMAINING CLAIMS

With respect to the remaining claims, all of the remaining claims depend directly or indirectly on one of the claims above, and therefore are allowable for the reasons given above. In addition, each of these claims independently introduces a feature that separately renders them patentable over the prior art. While the remaining dependent claims also introduce distinct patentable features, to expedite favorable resolution of this case, separate arguments are not provided for them.

CONCLUSION

For the reasons set forth above, it is respectfully submitted that all of the pending claims are now in condition for allowance. Therefore, the issuance of a formal Notice of Allowance is believed next in order, and that action is most earnestly solicited.

The Examiner is respectfully requested to contact the undersigned by telephone if it is believed that such contact would further the examination of the present application.

Please charge any shortages or credit any overages to Deposit Account No. 50-1302.

                                    Respectfully submitted,

                                    Hickman Palermo Truong & Becker LLP

Dated: January 23, 2009   /HowardHLouie#60820/
                                    Howard H. Louie
                                    Reg. No. 60,820

2055 Gateway Place, Suite 550
San Jose, California   95110-1089
Telephone No.: (408) 414-1225
Facsimile No.: (408) 414-1076

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